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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,466	10/26/2001	Alison Salyer Bagwell	16373	7830

23556 7590 11/08/2004

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EXAMINER	
REDDICK, MARIE L	

ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/010,466	BAGWELL ET AL.	
	Examiner	Art Unit	
	Judy M. Reddick	1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) *14-30 and 34-36* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 31-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The Amendment filed on 08/23/04 is sufficient to overcome the Claim Objections (2, 3, 5-7 & 11) and the rejection under 35 USC § 112, 2nd paragraph raised in the previous Office Action (05/18/04). Further, the statement provided on page 2, lines 13-14 of Counsel's REMARKS is sufficient to address the common ownership issue raised in the previous Office Action (05/18/04). However, the Amendment is insufficient to remove the Objection to the Specification and the provisional rejection under the judicially created doctrine of obviousness-type double patenting. Counsel's willingness to provide a Terminal Disclaimer (page 2 of the REMARKS) is noted. However, until an acceptable Terminal Disclaimer has been filed, the Double Patenting Rejection stands as set forth infra.

Election/Restrictions

2. Applicant's election of the Group I invention/poly (diallyldimethylammonium chloride-co-diacetone acrylamide), VARISOFT 222, ethylene glycol monoethyl ether and ammonium oxalate species in the reply filed on 08/23/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 14-30 & 34-36 remain withdrawn from consideration by the Examiner.

Specification

3. The disclosure is objected to because of the following informalities: The use of the at least trademarks "Airflex 540", "PrintRite 591", "Varisoft 222" "Varisoft 475", Q2-5211", "Reten 204LS" & "Adogen 432", pages 15-44, have been noted in this application. They should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as trademarks. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. Identification of the trade names may be introduced by amendment but it must be restricted to the characteristics of the product known at the time the application was filed to avoid any question of new matter. See M.P.E.P ' 608.01(v).

Appropriate correction is required.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-13 and 31-33 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 19-23 of copending Application No. 10/686,683 in view of Buecheler(U.S. 3,418,064). The claims (19-23) of U.S. copending application'683, drawn to an aqueous coating formulation containing solids, for enhancing image visualization and retention of reactive dye-based inks, comprising a) N-methylmorpholine-N-oxide, b) a cationic polymer or copolymer, c) a fabric softener, d) urea and e) ammonium salts of multifunctional weak acids selected from the group consisting of ammonium oxalate, ammonium tartrate and ammonium sulfate overlap in scope with the claims (1-13 and 31-33) of the instantly claimed invention drawn to an aqueous coating formulation containing solids, for enhancing image visualization and retention of acid dye-based

inks, comprising a) a cationic polymer or copolymer, b) a fabric softener, c) urea, d) ammonium salts of multifunctional weak acids which include ammonium oxalate and ammonium tartrate, e) latex binder, f) additives which include wetting agents, defoamers and surfactants and g) tanning agent(s) wherein said tanning agent is either ethylene glycol monoethyl ether, thiodiethylene glycol or a mixture thereof. It would have been obvious to the skilled artisan to modify the claimed aqueous coating formulation of U.S. copending application'683 by adding a tanning agent such as thiodiethylene glycol and a latex binder as per Buecheler who teach the use, in aqueous printing formulations, of common printing assistants such as urea, thiodiethylene glycol, wetting agents and other conventional additives, sufficient to include a latex binder, known as a commonly used additive in aqueous printing formulations. "For example" is in noway limiting(col. 4, line 12 of Buecheler). Things believed to be known to those skilled in the art are often asserted by the examiner to be well known, or matters of common knowledge. If justified, the examiner should not be obliged to spend time to produce documentary proof. If the knowledge is of such notorious character that judicial notice can be taken, it is sufficient so to state. In re Malcolm, 1942 C.D. 589; 543 O.G. 440. If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

6. Applicant's arguments filed 08/23/04 have been fully considered but they are not persuasive.

Relative to the Double Patenting Rejection----It is urged and maintained that the provisional rejection of claims 1-13 & 31-33 under the judicially created doctrine of obviousness-type double patenting over claim 19-23 of Copending Application No. 10/686,683 in view of Buecheler (U.S. 3,418,064) is deemed proper and maintained as per reasons of record (05-18-04).

Applicant is herein informed that the indication of Claims 1-13, 30 & 31 as being rejected per item 6 on the PTOL-326 cover sheet is in error. The present cover sheet correctly identifies Claims 1-13 and 31-33 as

being rejected which is consistent with the claims subjected to the rejection under 35 USC § 112 and the provisional rejection under the judicially created doctrine of obviousness-type double patenting (05/18/04). An apology is extended to applicant for any inconvenience that this may have caused. However, this does not affect the Finality of the Office Action since these claims have always been rejected.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (571)272-1110. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Judy M. Reddick
Primary Examiner
Art Unit 1713

JMR
11/04/04